# Guide to OHS:
# Employers

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# Our shared goal: health and safety

This guide introduces you to Alberta's occupational health and safety laws and your role – as an employer – in ensuring health and safety at the work site.

Occupational health and safety law is based on the internal responsibility system. The main idea of this system is that everyone in the workplace shares accountability for health and safety, according to the authority and level of control they have.

Alberta's *Occupational Health and Safety Act* (OHS Act) is an important law that affects you. Part 1 of the act sets out general duties of the regulated work site parties (employers, supervisors, workers, suppliers, service providers, owners, contracting employers, prime contractors, and temporary staffing agencies).

While each work site party may have a different role, they all share responsibility for health and safety. The OHS Act reinforces this by placing a common duty to co-operate on each work site party.

## The OHS Act and OHS Code

Alberta's main occupational health and safety laws are the OHS Act and the Occupational Health and Safety Code (OHS Code). These laws set out requirements to help keep your work site healthy and safe.

The OHS Act sets general rules to protect and promote the health and safety of Alberta workers. The act also gives the government authority to make workplace safety regulations and codes, and enforce the laws.

The OHS Code specifies detailed technical standards and health and safety rules. These technical requirements cover chemical hazards, equipment safety, first aid, harassment, violence and noise, to name a few.

## Do Alberta's OHS laws apply to me?

You are an employer if:

- You are self-employed.
- You employ or engage one or more workers, including workers from a temporary staffing agency.
- You are a designated employer representative.
- You are responsible for overseeing workers' health and safety for your corporation or employer.

Employers are a regulated work site party. The OHS Act and OHS Code apply to all regulated work site parties, work activities, and work sites in Alberta, with a few exceptions.

Activities and work sites where Alberta's occupational health and safety laws do not apply are:

- Where federal jurisdiction applies (for example, Canadian chartered banks, interprovincial transportation companies, television and radio broadcasters).
- Certain farming and ranching operations, if you are the owner, their family member or an unwaged person working at the farm or ranch.
- Private dwellings, if a person who lives there is doing tasks for their own business, or personal work – such as household

chores or repairs – in, to or around the home.
  - » If you are working from home for an outside employer, the OHS Act and OHS Code apply.

In some cases, only the OHS Act and limited sections of the OHS Code apply. These are:

- Certain farming and ranching operations – if they employ waged, non-family workers – must comply with Part 13 of the OHS Code, less one modification. (Part 13 is the technical requirements for health and safety committees and representatives.)
- When the occupant of a private dwelling (or someone on their behalf) directly employs a worker to do normal household duties, specific code provisions apply. This is true whether the domestic worker lives in the home or not.

More information on these topics can be found in the Are students and volunteers workers?, Domestic workers, and Health and safety on Alberta farms and ranches publications on Alberta's OHS Resource Portal. *

* Go to the inside back cover to find out how to access the OHS Resource Portal publications referenced in this booklet.

## Role of Alberta OHS

Alberta OHS is the part of the provincial government that administers and enforces Alberta's occupational health and safety laws. Alberta OHS has resources available to help you:

- Understand work site parties' rights and responsibilities.
- Meet your legal requirements.
- Prevent injuries, illnesses and fatalities.

If you have questions about occupational health and safety laws or workplace health and safety, call the OHS Contact Centre:

- 1-866-415-8690 anywhere in Alberta.
- 780-415-8690 in Edmonton and surrounding area.

## OHS officers

Alberta OHS officers conduct inspections to monitor compliance with occupational health and safety legislation. By law, OHS officers can:

- Enter a work site at any reasonable time.
- Require the production of any documents relating to health and safety. The officer can:
  - » Examine these, make copies or temporarily remove them to make copies.
  - » Use any of the employer's devices or systems, if needed, to examine the documents.
- Require reasonable assistance, including access to electronic information.
- Inspect, seize or take samples of materials, products or equipment.
  - » This can include requiring dismantling or testing, if needed.
- Bring along specialized equipment and technical experts.
- Do tests and take photographs, measurements or recordings.
- Require demonstrations of how equipment or machinery works.
- Interview and take statements from persons who have information related to the health and safety of workers.

OHS officers also have authority to:

- Investigate workplace injuries, illnesses or incidents.
- Require proof of identity from any person at a work site.

- Require employers to identify all workers and supervisors they employ.
- Take a range of actions to enforce compliance with occupational health and safety laws.

Section 37 of the OHS Act prohibits anyone from interfering with or hindering an OHS officer.

Read more in Role and duties of Alberta OHS officers.

## WCB

Sometimes people mistake Alberta OHS for the Workers' Compensation Board – Alberta (WCB). Alberta OHS is separate from the WCB.

The WCB's role is to provide rehabilitation services and wage-loss support for workers with job-related injuries and illnesses. The WCB works with Alberta OHS, industry, and labour to help reduce the impact of workplace injuries and illnesses on Albertans. The workers' compensation system is funded by employers; the WCB oversees the Accident Fund to ensure there are sufficient funds available for the payment of present and future compensation to injured workers.

## Your responsibilities

### General duties

Section 3 of the OHS Act states that as an employer, you must do everything reasonably practicable to ensure:

- The health, safety and welfare of workers.
- The health and safety of other persons at or in the vicinity of

the work site.
- Your workers know their rights and responsibilities under the occupational health and safety legislation.
- Your workers are not subject to and don't participate in workplace harassment or violence.
- Your supervisors are competent and know the occupational health and safety requirements that apply to your work.
- Your health and safety committee or representative – if you have either – comply with their legislated requirements.
- You resolve health and safety concerns in a timely manner.

Section 3 of the OHS Act also says you must ensure:

- Your workers are trained to perform their work in a healthy and safe manner.
- Only competent workers, or workers supervised by competent workers, carry out dangerous work.
- Health and safety information – describing hazards, controls, work practices and procedures – is readily available to workers and (if applicable) the health and safety committee or representative, or a prime contractor.
- Occupational health and safety legislation is readily available at your site.
- You cooperate with any person exercising a duty under the occupational health and safety legislation.

## Other legislated responsibilities

In addition to your general duties, you have other legal occupational health and safety responsibilities. These are found elsewhere in the OHS Act and OHS Code. Some examples are:

- Maintaining equipment at your work site in safe working order.
- Ensuring hazardous products (such as dangerous substances

or chemicals) are properly labelled and stored, and safety data sheets are readily available to workers.
- Ensuring workers have the skills and training they need to do their jobs safely, including but not limited to training on:
  - » Work practices and procedures.
  - » How to use equipment safely.
  - » How to select and use required personal protective equipment.
- Posting OHS orders at a conspicuous place on the work site, as long as the orders remain in effect.
  - » Distributing them electronically is also acceptable.

Note that these are only some highlighted employer responsibilities. There are many other employer duties in the OHS Act and OHS Code. As an employer, you must make sure you know and comply with any obligations that apply to you.

If you are self-employed (you work for yourself), both employer and worker responsibilities apply to you. However, you can modify these responsibilities as necessary, because you are one individual.

## Worker rights and responsibilities

Employers need to be aware of workers' rights and responsibilities under the internal responsibility system. Under the OHS Act, workers have three fundamental rights:

- The right to know.
- The right to participate.
- The right to refuse dangerous work.

Workers also have duties under the OHS Act and OHS Code. Their general obligations in the OHS Act are:

- Taking reasonable care to ensure their own and others' health and safety while working.
- Cooperating with you (their employer), their supervisor, or any other person to protect workplace health and safety.
- Wearing required personal protective equipment and using required health and safety devices or equipment.
- Refraining from causing or participating in harassment or violence.
- Reporting concerns – to you or their supervisor – about unsafe or harmful work site acts or conditions.
- Participating in health and safety training.
- Cooperating with any person exercising a duty under the occupational health and safety legislation.
- Only performing dangerous work if they're competent to do so, or are being supervised by a competent worker.

Learn more about workers' rights and responsibilities in Guide to OHS: Workers.

## Supervisor role and responsibilities

Your supervisors are a key part of the internal responsibility system and a regulated work site party. Like you, they have obligations under the OHS Act, as well as other legislated responsibilities under the OHS Code. Their general duties are to do everything reasonably practicable to:

- Protect the health and safety of workers under their supervision.
- Prevent workplace harassment and violence.
- Tell workers under their supervision about all known or possible hazards in the work area.
- Ensure workers under their supervision follow legislated occupational health and safety responsibilities.
- Report health and safety concerns to the employer.
- Cooperate with any person carrying out a duty under occupational health and safety legislation.

Learn more in Guide to OHS: Supervisors.

# Health and safety committees, representatives, and programs

**REGULARLY EMPLOYED**

Unwaged workers (volunteers) are not included in the count of regularly employed workers, for the purposes of determining if a health and safety committee or health and safety representative is required.

**VOLUNTEERS**

Volunteers are workers, and have the same legislated rights and protections. Although volunteers don't always count as regularly employed (see above), they can still serve on a health and safety committee or be a health and safety representative.

## Threshold requirements

Employers with 20 or more regularly employed workers must establish a health and safety committee and a health and safety program.

If you're an employer with five to 19 regularly employed workers, you must designate a health and safety representative.

## Health and safety committees and representatives

Health and safety committees and representatives are important because they allow meaningful participation in health and safety.

A health and safety committee is a group of worker and employer representatives working together to address health and safety concerns. A health and safety representative is an individual worker representative who works with you to address health and safety concerns.

Health and safety committees and representatives have similar duties. These include:

- The receipt, consideration and disposition of worker health and safety concerns.
- Participating in your hazard assessment process.
- Making recommendations about worker health and safety.
- Reviewing your work site inspection records.

Alberta OHS officers may ask health and safety committee members or health and safety representatives to accompany them on inspections.

Find more information in Health and safety committees and representatives.

## Health and safety program

> "Health and safety program" means a coordinated system of procedures, processes and other measures that is designed to be implemented by organizations in order to promote continuous improvement in occupational health and safety.
>
>
>
> OHS Act, s. 1(2)

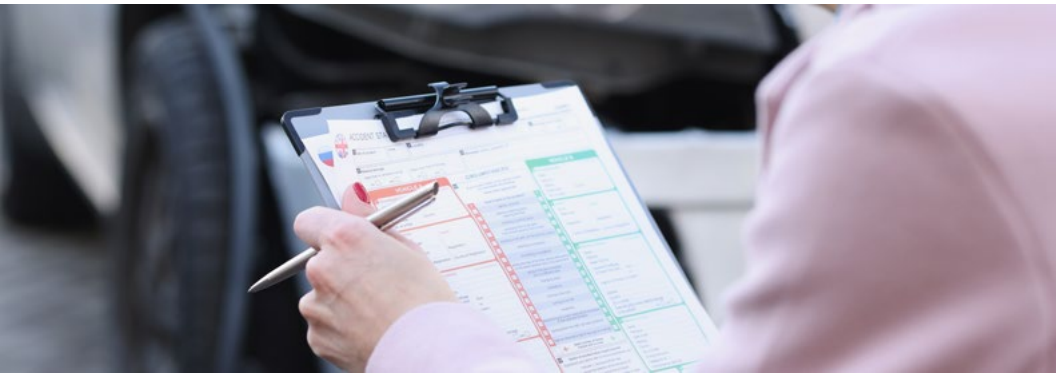
Alberta occupational health and safety legislation does not specify mandatory elements of a health and safety program. Employers have the flexibility to develop programs that best suit their workplace. The Health and safety programs publication introduces health and safety program requirements and some standard program elements.

If you regularly employ fewer than 20 workers, you don't have to set up a health and safety program, but you may still wish to do so.

Whether or not you have a health and safety program, you must meet a number of other legislated requirements that are foundational to health and safety programs. These include, but are not limited to, hazard assessment and control, incident reporting and investigating, and emergency response planning. Learn more in Participation in health and safety for small business owners and workers.

## Hazard assessment

You must conduct a hazard assessment of your work site. Your hazard assessment must identify all existing and potential hazards. As well, you must implement measures to eliminate or control all the hazards.



Every workplace has situations, conditions or things that may be dangerous to health and safety of workers. The hazard assessment and control process is a documented approach to prevent work-related injury or illness.

A team approach is necessary when doing hazard assessments. If you have a health and safety committee or representative, they must get involved. You must also involve workers affected by the hazards.

In addition, you must ensure that all workers who may be affected by the hazards are familiar with the hazard controls needed to keep themselves and others healthy and safe on the job.

Read more and find hazard assessment templates in Hazard Assessment and Control: a handbook for Alberta employers and workers.

## Emergency response plan

Alberta occupational health and safety laws require all work sites to have an emergency response plan. Some requirements are very specific: Part 7 of the OHS Code, for instance, sets out employer obligations related to emergencies that require rescue and evacuation, and Part 11 of the code states the rules that apply to first aid.

Emergency response plans must anticipate and address all emergency situations that could realistically develop at the workplace. You must involve the affected workers when developing your emergency response plan.

To be ready to activate the plan in an emergency, you must also equip and train workers, ensure the plan is accessible to everyone at work, conduct drills so that designated rescue and evacuation workers are trained and ready, and keep the plan current.

Read more and find additional templates in Emergency response planning: an occupational health and safety tool kit.

## Right to refuse dangerous work

In this section, "undue hazard" in relation to any occupation includes a hazard that poses a serious and immediate threat to the health and safety of a person.

OHS Act, s. 17(1)

A worker has a right to refuse work if they reasonably believe that there is an undue hazard at the work site or that the work is an undue hazard to themselves or others.

Section 17 of the OHS Act describes the steps that workers and employers must follow in the work refusal process.

For more information, read Right to refuse dangerous work.

## Disciplinary action complaints

No person shall take disciplinary action against a worker acting in compliance with this Act, the regulations, the OHS Code or an order issued under this Act.

OHS Act, s. 18

Disciplinary action is any action or threat of action that can negatively affect a worker's employment. A few examples of disciplinary action include termination, demotion, transfer, changed work hours, reprimands, coercion or intimidation.

Workers may file a complaint with Alberta OHS if they have reasonable cause to believe they have been subjected to disciplinary action in contravention of Section 18 of the OHS Act.

The OHS Act sets out the process around disciplinary action complaints. This includes what disciplinary action complaints OHS can accept and the maximum timeline for filing a complaint.

For more on this topic, read Disciplinary action complaints.

## Incident reporting and investigation

Section 33 of the OHS Act requires prime contractors to report and investigate certain incidents. If there is no prime contractor, the responsibility falls to you, as the employer.

## When you must report by phone as soon as possible

You must call the OHS Contact Centre (1-866-415-8690) as soon as possible if:

- A worker has died at work or from an illness connected to the work site.
- You believe a worker has been or will be admitted to hospital as a result of a workplace injury, illness, or incident. (Note that hospital admission doesn't include being treated and released from a hospital emergency department or urgent care centre.)
- There has been:
  - » An unplanned or uncontrolled explosion, fire, or flood that caused or could have caused a serious injury or illness.
  - » A crane, derrick, or hoist collapse or upset.
  - » A full or partial building or structural collapse or failure.
- A worker has been exposed to radiation above the limits set out in Schedule 12 of the OHS Code.
  - » This commonly includes exposure to X-rays or gamma rays, but may also include other forms of radiation such as alpha or beta particles or high-energy radiofrequencies.

## When you must report online as soon as possible

You must report the following types of incidents to Alberta OHS by visiting oirportal.labour.alberta.ca/pre-screening as soon as possible:

- Mine or mine site incidents as described in Section 544 of the OHS Code.

## When you must report a potentially serious incident

A potentially serious incident is any incident in which a serious injury or illness was likely, **and** there is reasonable cause to believe corrective action may be needed to prevent it from happening again.

You must report any potentially serious incidents to Alberta OHS by visiting oirportal.labour.alberta.ca/pre-screening after your incident investigation is complete (see **Investigating an incident** on the next page).

## Disturbing the scene of an incident

You must not disturb the scene if:

- An incident has resulted in a worker fatality, or resulted (or may result) in a worker being admitted to hospital.

- A person has been injured or become ill because of:
  - » An unplanned or uncontrolled explosion, fire or flood.
  - » A crane, derrick, or hoist collapse or upset.
  - » A full or partial building or structural collapse or failure.

Note that in such situations, you are allowed to disturb the scene if:

- An OHS officer or police officer gives you permission to do so; or
- You are acting to do any of the following:
  - » Attend to a person.
  - » Prevent further injuries, illnesses, or incidents.
  - » Protect property that is endangered by the incident.

The OHS Act defines the scene as the immediate area where the injury, illness, or incident occurred.

You also cannot alter, move, or remove equipment, documentation, or other information related to the injury, illness, or incident.

## Investigating an incident

You must investigate any incident that you are required to report to Alberta OHS (see the **When you must report...** sections on the previous pages). You must prepare a report that outlines the circumstances of the injury, illness, incident or worker exposure and the corrective actions taken, if any, to prevent a recurrence.

You must also provide your investigation report to Alberta OHS, as well as to your health and safety committee or representative, or your workers, as applicable.

You must keep a copy of the report available for at least two years.

For more information on investigating and reporting injuries, illnesses, and incidents, read Incident reporting and investigation.

# Acceptances and approvals

Alberta OHS can issue acceptances and approvals. Acceptances and approvals provide options for work site parties to do something different from a requirement in the OHS Code under specific circumstances. For example, Alberta OHS may issue an acceptance if an employer has developed a work practice that gives better worker health or safety than a practice specified in the OHS Code.

For more information, read Applying for an OHS acceptance or approval.

# Non-compliance

It is in everyone's best interest to provide healthy and safe work sites and proper training, and to make sure that workers follow safe and healthy practices. However, if you or other work site parties don't comply with the law, the OHS Act can be used to compel all parties to follow the rules.

## OHS orders

The OHS Act gives Alberta OHS officers authority to issue orders that require work site parties to comply with occupational health and safety laws. Types of orders include:

- Compliance orders, which mandate work site parties to meet their legislated obligations, and require measures and timelines for compliance.
- Stop use orders, which require certain work site parties to stop using personal protective equipment, other equipment, harmful substances or explosives if they are unsafe or do not comply with occupational health and safety legislation.

- Stop work orders can be used if an officer believes there is a danger to worker health and safety. They can apply to certain activities or areas of a work site, an entire work site, or to multiple work sites controlled by a single employer. An OHS officer may also require any person to leave the work site if it is dangerous for that person to remain.

## Violation tickets

OHS officers have authority to write immediate on-the-spot tickets against employers, supervisors, and workers who violate certain provisions of the OHS Code. Ticket amounts range from $100 to $500 per violation, plus a 20% victim surcharge.

OHS tickets use the same form as Alberta traffic tickets. The form describes how to pay or contest the ticket, and gives a court date and location.

## Administrative penalties

An administrative penalty is a monetary penalty issued by Alberta OHS. Penalty amounts are a maximum of $10,000 per day, per contravention. OHS officers can issue administrative penalties to any person who has done any of the following:

- Contravened occupational health and safety laws.
- Not complied with an order, acceptance, allowance, approval, or inter-jurisdictional recognition.
- Made a false statement or given false or misleading information to an officer.

For more information on orders, tickets or administrative penalties, read Role and duties of Alberta OHS officers.

## Prosecutions

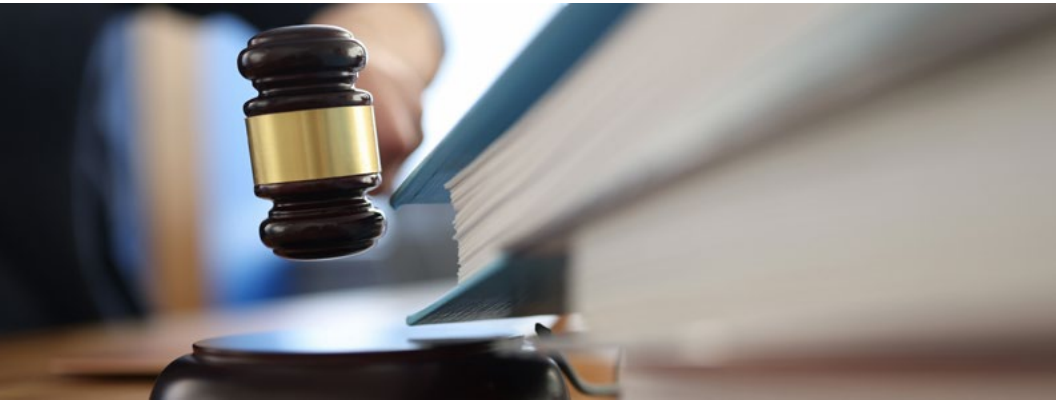
A work site party who breaks the rules of the OHS Act or the OHS Code, or commits other offences listed in the act, can be charged.

Conviction on a first offence can lead to a fine of up to $500,000, plus $30,000 each day an offence continues and/or a jail term of up to six months per violation. A second offence can result in a fine of up to $1 million plus $60,000 each day an offence continues and/or a jail term of up to one year per violation. These penalties are set out in the OHS Act.

As well, charges can be laid for workplace incidents under federal criminal law against anyone who directs another person's work, and whose actions or omissions "show a wanton and reckless disregard for the lives and safety of other persons." The Canada *Criminal Code* imposes serious penalties for violations that result in bodily harm (serious injury or illness) or death. In such cases, the maximum jail penalties are 10 years for each person who suffered bodily harm (serious injury or illness) and life imprisonment in relation to each person killed.

Companies and individuals can also be subject to fines and other criminal sanctions under the *Criminal Code*.

For more information on occupational health and safety prosecutions, visit alberta.ca/ohs-investigations.aspx.



## Appeal an OHS order or decision

If you receive an order from Alberta OHS or disagree with certain OHS decisions, you can appeal the matter to the Alberta Labour Relations Board (ALRB).

The ALRB hears appeals of OHS orders, administrative penalties, licence cancellations or suspensions, work refusal investigations, and disciplinary action complaint decisions.

The ALRB can:

- Confirm, vary, or revoke certain orders or decisions.
- Remit certain orders or decisions back to OHS.
- Reject hearing an appeal if the ALRB determines it is without merit, or is frivolous, trivial, vexatious, filed without merit, or an abuse of process.

For more information, visit alberta.ca/appeal-ohs-action.aspx.

# Notes

# Further reading

The resources that were referenced throughout this guide are listed below. To access them, visit Alberta's OHS Resource Portal online at

**ohs-pubstore.labour.alberta.ca**

and search for the resource's Publication ID:

| Resource | Publication ID |
|---|---|
| Applying for an OHS acceptance or approval | **LI030** |
| Are students and volunteers workers? | **LI022** |
| Disciplinary action complaints | **LI061** |
| Domestic workers | **LI069** |
| Emergency response planning: an occupational health and safety tool kit | **BP040** |
| Guide to OHS: Supervisors | **LI010** |
| Guide to OHS: Workers | **LI008** |
| Hazard assessment and control: a handbook for Alberta employers and workers | **BP018** |
| Health and safety committees and representatives | **LI060** |
| Health and safety on Alberta farms and ranches | **BP029** |
| Health and safety programs | **LI042** |
| Incident reporting and investigation | **LI016** |
| Participation in health and safety for small business owners and workers | **LI055** |
| Right to refuse dangerous work | **LI049** |
| Role and duties of Alberta OHS officers | **LI046** |

You can also access the OHS Resource Portal using this QR code:

# Contact us

### OHS Contact Centre
1-866-415-8690 (Alberta)
780-415-8690 (Edmonton area)

### Deaf or hard of hearing (TTY):
1-800-232-7215 (Alberta)
780-427-9999 (Edmonton area)

### Notify OHS of health and safety concerns
alberta.ca/file-complaint-online.aspx

> Call the OHS Contact Centre if you have concerns that involve immediate danger to a person on a work site.

### Report a workplace incident to OHS
alberta.ca/ohs-complaints-incidents.aspx

### Website
alberta.ca/ohs

# Get copies of the OHS Act, Regulation, and Code

### Alberta King's Printer
alberta.ca/alberta-kings-printer.aspx

### OHS
alberta.ca/ohs-act-regulation-code.aspx

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